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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,497	10/26/2001	Er-Xuan Ping	MTI-31041-A	8624
22202	7590	07/08/2003		
WHYTE HIRSCHBOECK DUDEK S C 111 EAST WISCONSIN AVENUE SUITE 2100 MILWAUKEE, WI 53202			EXAMINER	
			LE, THAO X	
			ART UNIT	PAPER NUMBER
			2814	

DATE MAILED: 07/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Applicant No.	Applicant(s)
	10/046,497	PING ET AL.
	Examiner	Art Unit
	Thao X Le	2814

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 06 June 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) The period for reply expires _____ months from the mailing date of the final rejection.
- b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. The proposed amendment(s) will not be entered because:
 - (a) they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) they raise the issue of new matter (see Note below);
 - (c) they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. Applicant's reply has overcome the following rejection(s): _____.
4. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 101-116, 123-135, 137-160, 162-163, 165-223.

Claim(s) withdrawn from consideration: _____.

8. The proposed drawing correction filed on _____ is a) approved or b) disapproved by the Examiner.

9. Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. Other: _____

Continuation of 5. does NOT place the application in condition for allowance because:

1) Applicant's arguments filed 06 June 2003 have been fully considered but they are not persuasive. The Applicant argues that Miyano and Moslehi do not disclose two overlying epitaxial silicon layer, this is not convincing because

- a) Epitaxial is a process, thus it would not lend patentability to the product.
- b) The two overlying epitaxial silicon layers as claimed would not be distinguishable over a single, double, or multiple epitaxial silicon layer in the final structure, particularly in light of the prior art single epitaxial layer.
- c) As evident in Moslehi reference, two epitaxial silicon layers can be combined into one layer, column 20 lines 12-19, to create a final structure in fig. 19.

2) The Applicant also argues that the deposit of an oxide layer that would isolate the semiconductor layer 92 and 94 of Moslehi's structure would be contrary to Moslehi's process for forming metal interconnect segment 98 and 100. This is not persuasive because the interconnect 98 and 100 would provide a good source, drain and gate contact structures, such structure is similar to that of Wu's fig 7, contacts 18 and 20. Furthermore, an oxide layer or inter dielectric can be deposited on the entire structure including interconnect segment 98 and 100. The purpose of such dielectric layer is providing the structure isolation or protection and for further processing such as plug contact, which is common in the art, as it is described by Wu in fig. 8. Therefore, the deposit of an oxide layer would not isolate the structure, but it rather provides the structure protection.

3) With respect to claim 131, the Applicant argues that Saihara describes single epitaxial silicon; see discussion of in the item 1 above.



PHAT X. CAO
PRIMARY EXAMINER